

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/029,667

**Applicant(s)**

CHASE ET AL.

**Examiner**

DOHM CHANKONG

**Art Unit**

2452

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 19 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Dohm Chankong/  
Examiner, Art Unit 2452

Continuation of 11, does NOT place the application in condition for allowance because: As to claims 43 and 54, Applicant argues that the cited references do not teach maintaining access to a plurality of secondary content addresses. Applicant bases this argument on Schmid's teaching that the preferred embodiment for storing supplemental information is at a local source and therefore "[s]ince the supplemental information source is local, there is no need to store any secondary content address." Applicant's argument is not persuasive for two reasons. First, Schmid clearly states that while the preferred embodiment is to store the information locally, Schmid also discloses that the supplemental information may be stored at a remote information source. In such an embodiment, there is a clear implication that the secondary content addresses are stored and the client maintains access to them in order to access the secondary content. And even if Schmid were limited to storing the supplemental information locally as Applicant's argument erroneously implies, this would not necessitate the conclusion that "Schmid does not store these addresses." Applicant's claim merely requires the addresses to "identify[] secondary content located at a respective secondary content source." Schmid discloses that the network client "request[s] supplemental information from a supplemental information source 16" [column 6 "lines 41-44"]. One of ordinary skill in the art would understand that a request would inherently include some form of identifier to identify the requested secondary content. Thus, whether the secondary information were local or remote to the user, the request would still need to identify which secondary information were being requested by the client. Therefore, Schmid discloses maintaining access to secondary content addresses as claimed. .

As to claim 50, Applicant argues that the cited references do not teach concurrently retrieving the initial content during the retrieval of the secondary content. Schmid discloses concurrently sending out retrieval requests for both the requested and supplemental information [column 6 «lines 8-28 and 41-44»]. Applicant argues that Schmid acquires content in distinct steps. However, Applicant is reminded that "whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited." MPEP 2111.04 (citing *Hoffer v. Microsoft Corp.*, 405 F.3d 1326, 1329 (Fed. Cir. 2005)). While Applicant does not use a "whereby" clause in the claim, the phrase "to concurrently retrieve the initial content during retrieval of the secondary content" is simply an intended result of the process step in the preceding claim language (providing a command to the requesting device). Therefore the phrase is not given any patentable weight. Applicant should amend the claim so that the "concurrently retrieving" step is affirmatively recited as a process step rather than intended result. Because the phrase is not given patentable weight, the only relevant limitation in the claim is "providing a command to the requesting device via the redirection information." Schmid teaches this feature [column 6 «lines 8-28 and 41-44»].

For the foregoing reasons, Applicant's arguments are not persuasive.